**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

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| IN RE: | Frank G. & Esther M. Stiver<br>Dist. 5, Map 103M, Group I, Control Map 103M,<br>Parcel 3.01<br>Residential Property<br>Tax Year 2007 | )<br>) Dickson County<br>)<br>)<br>) |

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

| LAND VALUE | IMPROVEMENT VALUE | TOTAL VALUE | ASSESSMENT |
|---|---|---|---|
| $17,000 | $68,800 | $85,800 | $21,450 |

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 26, 2007 in Charlotte, Tennessee. In attendance at the hearing were Frank Stiver, the appellant, and Gail Wren, Dickson County Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 305 Olive Street in Dickson, Tennessee. The taxpayer purchased subject property on January 5, 2005 for $82,500.

The taxpayer contended that subject property should be valued at $66,066. In support of this position, the taxpayer argued that subject property has been experiencing a loss in value since his purchase due to its location in a declining neighborhood. In particular, the taxpayer offered proof concerning the number of rental properties in the immediate area and their poor physical condition.

The taxpayer asserted that his January 5, 2005 purchase of subject property was for more than market value because he was under duress at the time. Mr. Stiver testified that due to his wife's poor health he needed to purchase a home close to the hospital.

The taxpayer maintained that a reduction in value is also supported by the ruling of Administrative Judge Pete Loesch in conjunction with the taxpayer's appeal for tax year 2006. As will be discussed below, Judge Loesch adopted an *equalized* value of $74,100 for tax year 2006.

The taxpayer's $66,066 contention of value was based upon a methodology which compared the assessor's appraisals of two homes on Sylvis Street with their sales prices. Given an average ratio of 77%, the taxpayer argued that the appraisal of subject property should be $85,800 x .77 or $66,066. The $85,800, of course, represents the assessor's current appraisal of subject property. The taxpayer termed the 77% figure the "adjustment factor."

The assessor contended that subject property should be valued at $85,800. In support of this position, four comparable sales were introduced into evidence. Moreover, the assessor noted that the taxpayer purchased subject property on January 5, 2005 for $82,500.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $85,800 based upon the presumption of correctness attaching to the decision of the Dickson County Board of Equalization.

Since the taxpayer is appealing from the determination of the Dickson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that comparable sales normally constitute the best evidence of the market value of a residence. As stated by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992):

> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

Respectfully, the administrative judge finds that the taxpayer's proposed valuation methodology does not comport with generally accepted appraisal practices and has no probative value whatsoever. The administrative judge finds the taxpayer's reliance on such a methodology puzzling given Mr. Stiver's testimony concerning his extensive experience valuing property for lending purposes. The administrative judge cannot imagine that a lending institution would rely on a methodology such as that propounded by the taxpayer.

The administrative judge finds that the taxpayer has apparently misapprehended Judge Loesch's ruling for tax year 2006. In that case, Judge Loesch ruled in relevant part as follows:

> In the opinion of the administrative judge, the most accurate barometer of this property's market value on January 1, 2006 is the $86,500 amount which the appellant offered to pay for the house in 2004. Any discount for the negative influences later discovered by Mr. Stiver would likely have been offset by the

> generally favorable real estate market conditions during the intervening period.

Initial Decision and Order at 3.

The 2006 appraisal ratio for Dickson County as adopted by the State Board of Equalization was .8567 or 85.67% ($86,500 x .8567 = $74,105). The 2007 appraisal ratio for Dickson County is 100%. Thus, carrying Judge Loesch's findings forward for tax year 2007 would result in a value of $86,500 ($86,500 x 1.0000 = $86,500).

The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

| LAND VALUE | IMPROVEMENT VALUE | TOTAL VALUE | ASSESSMENT |
|---|---|---|---|
| $17,000 | $68,800 | $85,800 | $21,450 |

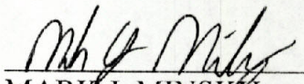
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 5th day of December, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Frank G. & Esther M. Stiver
Gail Wren, Assessor of Property